

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Country Inns & Suites By Carlson, Inc.,

Plaintiff,

vs.

Harkison Corp., Narendra R. Patel,
and Narendra H. Patel,Defendants.

Civil No. 10-740 PJS/FLN

**AMENDED REPORT AND
RECOMMENDATION**

This matter came on for hearing on April 18, 2011 on Plaintiff's Motion for Sanctions Due to Defendants' Failure to Respond to Overdue Discovery and Participate in the Civil Trial Process (ECF No. 41). On April 29, 2011, the Court issued a Report and Recommendation. (ECF No. 47.) On May 13, 2011, counsel for Plaintiff submitted a declaration setting forth costs and attorneys' fees incurred in this action. (ECF No. 49.) The Court hereby amends its previous Report and Recommendation, dated April 29, 2011, as follows. (ECF No. 47.)

The Court has carefully reviewed Plaintiff's Motion for Sanctions Due to Defendants' Failure to Respond to Overdue Discovery and Participate in the Civil Trial Process (ECF No. 41) and the Declaration of Kirk W. Reilly (ECF No. 49). The Court finds that Defendants Harkison Corp. and Narendra H. Patel have willfully and purposefully neglected this case and engaged in a pattern of sanctionable conduct that warrants an entry of default judgment pursuant to Rule 37 of the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 37(b)(2)(A)(vi) and 37(d)(3). Based upon the foregoing, and all the files, records and proceedings herein, **IT IS HEREBY RECOMMENDED** that:

- A. Plaintiff's Motion for Sanctions Due to Defendants' Failure to Respond to Overdue Discovery and Participate in the Civil Trial Process (ECF No. 41) be **GRANTED** in its entirety;
- B. A default judgment be entered against Defendants Harkison Corp. and Narendra H. Patel, jointly and severally, in the amount of \$142,814.57; and
- C. Plaintiff be awarded attorneys' fees in the amount of \$34,377.56 and costs and disbursements in the amount of \$2,130.56.

DATED: May 25, 2011

s/ Franklin L. Noel
FRANKLIN L. NOEL
United States Magistrate Judge

Pursuant to the Local Rules, any party may object to this Report and Recommendation by filing with the Clerk of Court and serving on all parties, on or before **June 8, 2011**, written objections that specifically identify the portions of the proposed findings or recommendations to which objection is being made, and a brief in support thereof. A party may respond to the objecting party's brief within fourteen (14) days after service thereof. All briefs filed under the rules shall be limited to 3,500 words. A judge shall make a de novo determination of those portions to which objection is made.

Unless the parties are prepared to stipulate that the District Court is not required by 28 U.S.C. § 636 to review a transcript of the hearing in order to resolve all objections made to this Report and Recommendation, the party making the objections shall timely order and cause to be filed by **June 8, 2011**, a complete transcript of the hearing.

This Report and Recommendation does not constitute an order or judgment of the District Court, and it is, therefore, not appealable to the Circuit Court of Appeals.